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EXAMINER

ABEL JALIL, NEVEEN

ART UNIT PAPER NUMBER

2165

DATE MAILED: 02/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/006,466	<b>Applicant(s)</b> EKKEL, ERIK	
	<b>Examiner</b> Neveen Abel-Jalil	<b>Art Unit</b> 2165	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 19-December-2005 has been entered.
2. The amendment filed on 19-December-2005 has been received and entered. Claims 22-26 have been newly added. Therefore, claims 1-16 are now pending.

### ***Claim Objections***

3. Claim 9, 13, 16, 20, and 26 are objected to because of the following informalities:

Claim 9 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 9, preamble lists the recitation of "A method of ... for a system of claim 1" which lacks antecedent basis since the claim is dependent on claim 1 that state the narrow recitation of "a system". In addition, claim 9, now lists new method steps a-h, without the mention of a-b of claim 1 at all. Therefore, omitting any previously recited a-b. "A claim in dependent form shall contain a reference to a claim previously set forth and then specify

a further limitation of the subject matter claimed. A claim in dependent form shall be constructed to incorporate by reference all the limitations of the claim to which it refers" (See 35 U.S.C. 112 fourth paragraph). Since claim 9 recites limitations that could be omit steps of claim 1, or exist without steps of claim 1, claim 9 is not in proper dependent form.

Appropriate correction is required.

Claims 13, and 16 are objected as being improperly constructed claim. It is unclear to the examiner whether what's being claimed is the method or the system. If it is meant to be directed to a method claim, the preamble should state, "said method comprising" followed by method steps.

If the claim is intended to be directed towards a system claim, then the preamble should state "a system implemented method ... said system comprising." and should disclose hardware component of the system.

Appropriate correction is required.

In claim 20, line 2, the recitation of "based" is unnecessary and should be deleted.

Claim 26 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 26, line 1, recites "said processes further includes" then listing steps 3 and 4 which lacks antecedent basis since the claim is dependent on claim 4 that

state the conditional recitation “by selecting from among at least the processes” and then lists steps 1, and 2, without the mention of steps 3, and 4 at all. Therefore, omitting any steps other than the one selected as the process. “A claim in dependent form shall contain a reference to a claim previously set forth and then specify a further limitation of the subject matter claimed. A claim in dependent form shall be constructed to incorporate by reference all the limitations of the claim to which it refers” (See 35 U.S.C. 112 fourth paragraph). Since claim 4 recites limitations that could be omit steps of claim 26, claim 26 is not in proper dependent form.

Appropriate correction is required.

#### *Claim Rejections - 35 USC § 112*

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-26 are rejected under 35 U.S.C. 112, second paragraph, as failing to set forth the subject matter which applicant(s) regard as their invention. Applicant’s language of “allowing” or “causing” a computer to do something -in claims 1, 4, 9-10, 12-13, 16, 18, 21-22- is not prohibiting and does not cause any functionality to occur in the computer and thus failing to particularly point out and distinctly claim their invention (it's unclear what Applicant's intended metes and bounds of the claim are, since the claim appears to cover anything and everything that does not prohibit actions from occurring).

Claims 2-3, 5-8, 11, 14-15, 17, 19-20, and 23-26 are dependent on claims 1, 4, 9-10, 12-13, 16, 18, 21-22 and therefore carries the same deficiency.

Independent claims 1, 4, 13, 16, and 21 recite the limitation “software capable of” is indirect, suggest optionally, and passive which renders any recitation claimed after not be given patentable weight. Appropriate correction is required.

The Examiner points to MPEP 2106 [R-2] wherein the claim’s recitation of “software capable of” raises the question to Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation.

Office personnel must rely on the applicant’s disclosure to properly determine the meaning of “software capable of” in the claims. Limitations appearing in the specification but not recited in the claim are not read into the claim; therefore, in this case, the recitation of “capable of” as interpreted in light of the specification provide the “functionality” or “the capability” of the database management system to perform the steps without definite disclosure limiting or excluding any alternative, negative, or even all together suggest actually performing or implementing the functionality that is database management system is capable of.

Therefore, any cited art that teaches the steps otherwise in the alternative can be used to reject the instant application. The computer being capable to perform a function does not mean that it will ever actually perform that functionality (i.e. “software capable of” should be clarified and changed to a more definite term).

Claims 2-3, 5-12, 14-15, 17-20, and 22-26 are dependent on Independent claims 1, 4, 13, 16, and 21 and therefore carry the same deficiency.

Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 9 recites the limitation " for a system of claim 1" in preamble. There is insufficient antecedent basis for this limitation in the claim.

*Claim Rejections - 35 USC § 102*

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Cooper et al. (U.S. Pub. No. 20010051996 A1).

As to claim 1, Cooper et al. discloses a system for peer-to-peer access to a collection of data, comprising:

- a. a musicbox (See Figure 2, wherein "musicbox" reads on "User Device") comprising:
  - i. a persistent data store, the persistent data store containing a plurality of individually selectable data files of a predetermined data format, **some of** the data files being pre-loaded onto the persistent data store (i.e. an object that's stored in the form of a file or an element of a file, rather than only in memory, see page 5, paragraphs 0062-0063);

ii. a data communications interface operatively connected to a data communications network to effect a peer-to-peer network (See page 5, paragraph 0057); and

iii. a controller operatively connected to the persistent data store and the data communications interface (See page 2, paragraph 0018, also see page 2, paragraph 0034); and

b. software executing in the musicbox (See page 5, paragraph 0059, wherein “musicbox” reads on “user device”), the software **capable of**:

i. identifying, without utilizing a central server, other musicboxes executing instances of the software (See page 6, paragraph 0075, wherein “without utilizing a central server” reads on “Gnutella” performs peer-to-peer w/o central server);

ii. **allowing** peer-to-peer sharing of the data files with the identified other musicboxes, the sharing restricted to the identified other musicboxes having authorization to participate in the peer-to-peer sharing of data files (See page 13, paragraph 0196, wherein “identified other musicboxes” reads on “device ID”);

iii. securing the data files from unauthorized access (See abstract);

iv. reproducing the data files into a predetermined perceptible format (See page 5, paragraph 0060, wherein “reproducing” reads on “decrypting”); and

v. **allowing** users of the software to manipulate the data files (See page 5, paragraph 0057, also see page 16, paragraph 0254).

As to claim 2, Copper et al. teaches wherein the data files comprise works subject to copyright and workings not subject to copyright (See page 8, paragraphs 0099-0126, also see page 1, paragraph 0006).



As to claim 3, Cooper et al. discloses wherein the data files comprise at least **one of** audiovisual works, music recordings, performance recordings, digitized film recordings, digitized video recordings, graphic work images, text, and software (See page 13, paragraph 0196).

As to claim 4, Cooper et al. discloses a system for peer-to-peer access to a collection of data, comprising:

- a. a musicbox (See Figure 2, wherein “musicbox” reads on “User Device”) comprising:
  - i. a persistent data store, the persistent data store containing a plurality of individually selectable data files of a predetermined data format, **some of** the data files being pre-loaded onto the persistent data store (i.e. an object that's stored in the form of a file or an element of a file, rather than only in memory);
  - ii. a data communications interface operatively connected to a data communications network to effect a peer-to-peer network (See page 5, paragraph 0057); and
  - iii. a controller operatively connected to the persistent data store and the data communications interface (See page 2, paragraph 0018, also see page 2, paragraph 0034); and
- b. software executing in the musicbox (See page 5, paragraph 0059, wherein “musicbox” reads on “user device”), the software **capable of**:
  - i. identifying, without utilizing a central server, other musicboxes executing instances of the software (See page 6, paragraph 0075, wherein “without utilizing a central server” reads on “Gnutella” performs peer-to-peer w/o central server);

ii. **allowing** peer-to-peer sharing of the data files with the identified other musicboxes, the sharing restricted to the identified other musicboxes having authorization to participate in the peer-to-peer sharing of data files;

iii. securing the data files from unauthorized access (See abstract);

iv. reproducing the data files into a predetermined perceptible format (See page 5, paragraph 0060, wherein “reproducing” reads on “decrypting”); and

v. **allowing** users of the software to manipulate the data files, wherein said software is configured to perform said securing files from unauthorized access (See page 5, paragraph 0065) in step (b)(iii) by **selecting from among at least the processes:**

(1) securing a data file from unauthorized copying (See page 5, paragraph 0065); and

(2) securing a data file for authorized access (See pages 5-6, paragraphs 0066-0070).

As to claim 5, Cooper et al. discloses further comprising an audio-visual interface to export audio and/or visual data for further reproduction of content within the data files (See page 6, paragraph 0072, wherein “interface” reads on “log-in” done on browser to access information, also see page 17, paragraph 0274).

As to claim 6, Cooper et al. discloses wherein the musicbox is selected from at least **one** of specialized musicbox devices and personal computers (See Figure 2).

As to claim 7, Cooper et al. discloses further comprising a central server to provide registration services, the central server being a peer participant in the peer-to-peer network (See page 5, paragraphs 0062-0063).

As to claim 8, Cooper et al. teaches comprising an authorization device, comprising at **least one of** an electronic smart card, a mechanical smart card, and an optical key smart card (See page 13, paragraphs 0187-00196).

As to claim 9, Cooper et al. discloses a method of distributing data files for a system of claim 1, comprising:

- a. pre-loading a plurality of data files onto the persistent data store from a larger set of data files (i.e. an object that's stored in the form of a file or an element of a file, rather than only in memory, see page 12, paragraph 0166);
- b. initializing access of the system to a peer-to-peer network (See page 5, paragraph 0062);
- c. identifying other systems available on the peer-to-peer network (See page 5, paragraph 0062);
- d. determining which of the data files on the other identified systems are not present on the persistent data store (See page 5, paragraph 0063, wherein “determining” reads on “scanning hard drive”) ;
- e. identifying the plurality of data files on the persistent data store to the other identified systems (See page 2, paragraph 0020);

- f. **allowing** a user to catalog the data files available on the identified systems (See page 12, paragraph 0168);
- g. **allowing** the user to select a data file from the plurality of data files identified on the peer-to-peer network (See page 2, paragraph 0018); and
- h. **allowing** the user to render the data files into a desired perceptible format (See page 10, paragraph 0137).

As to claim 10, Cooper et al. discloses comprising requiring a user to log into the peer-to-peer network and presenting a user interface to the user appropriate to **allow** the user to select one or more categories of data files available from a larger set of such categories (See page 6, paragraph 0072, also see page 12, paragraph 0168).

As to claim 11, Cooper et al. discloses further comprising requiring access by the musicbox to the peer-to-peer network on a predetermined periodic basis (See page 2, paragraph 0057, also see page 5, paragraph 0060).

As to claim 12, Cooper et al. discloses comprising allowing user to purchase a data file for permanent access, the permanent access comprising downloading the data file onto a storage medium of the user's choice (See page 17, paragraph 0275).

As to claim 13, Cooper et al. discloses a method of distributing data files for a system for peer-to-peer access to a collection of data, comprising:

- a. a musicbox (See page 5, paragraph 0057) comprising:
  - i. a persistent data store, the persistent data store containing a plurality of individually selectable data files of a predetermined data format, **some of** the data files being pre-loaded onto the persistent data store (i.e. an object that's stored in the form of a file or an element of a file, rather than only in memory, see page 5, paragraphs 0062-0063);
  - ii. a data communications interface operatively connected to a data communications network to effect a peer-to-peer network (See page 5, paragraph 0057); and
  - iii. a controller operatively connected to the persistent data store and the data communications interface (See page 2, paragraph 0018, also see page 2, paragraph 0034); and
- b. software executing in the musicbox See page 5, paragraph 0059, wherein “musicbox” reads on “user device”), the software **capable of**:
  - i. identifying, without utilizing a central server, other musicboxes executing instances of the software (See page 6, paragraph 0075, wherein “without utilizing a central server” reads on “Gnutella” performs peer-to-peer w/o central server);
  - ii. **allowing** peer-to-peer sharing of the data files with the identified other musicboxes, the sharing restricted to the identified other musicboxes having authorization to participate in the peer-to-peer sharing of data files (See page 13, paragraph 0196, wherein “identified other musicboxes” reads on “device ID”);
  - iii. securing the data files from unauthorized access (See abstract);
  - iv. reproducing the data files into a predetermined perceptible format (See page 5, paragraph 0060, wherein “reproducing” reads on “decrypting”); and

v. **allowing** users of the software to manipulate the data files (See page 5, paragraph 0057, also see page 16, paragraph 0254), wherein said method comprises:

a. pre-loading a plurality of data files onto the persistent data store from a larger set of data files (i.e. an object that's stored in the form of a file or an element of a file, rather than only in memory, see page 12, paragraph 0166);

b. initializing access of the system to a peer-to-peer network (See page 5, paragraph 0062);

c. identifying other systems available on the peer-to-peer network (See page 5, paragraph 0062);

d. determining which of the data files on the other identified systems are not present on the persistent data store (See page 5, paragraph 0063, wherein “determining” reads on “scanning hard drive”);

e. identifying the plurality of data files on the persistent data store to the other identified systems (See page 2, paragraph 0020);

f. **allowing** a user to catalog the data files available on the identified systems (See page 12, paragraph 0168);

g. **allowing** the user to select a data file from the plurality of data files identified on the peer-to-peer network (See page 2, paragraph 0018); and

h. **allowing** the user to render the data files into a desired perceptible format, wherein the method step (b) further comprising limiting a user to at least one of a read only or transient access mode (See page 6, paragraph 0076).

As to claim 14, Cooper et al. discloses wherein step (b) further comprises:

- i. requiring the user to obtain a subscription (See page 15, paragraph 0229);
- ii. registering the user once the subscription is obtained (See page 6, paragraph 0074); and
- iii. collecting and distributing appropriate royalties to content creators at least partially based on the user's subscription (See page 6, paragraph 0076).

As to claim 15, Cooper et al. discloses wherein the subscription comprises at least **one of** monthly fees, pre-paid content purchase, and per unit of content purchase (See page 6, paragraph 0077).

As to claim 16, Cooper et al. discloses a method of distributing data files for a system for peer-to-peer access to a collection of data, said system comprising:

- a. a musicbox (See Figure 2, wherein "musicbox" reads on "User Device") comprising:
  - i. a persistent data store, the persistent data store containing a plurality of individually selectable data files of a predetermined data format, **some of** the data files being pre-loaded onto the persistent data store (i.e. an object that's stored in the form of a file or an element of a file, rather than only in memory, see page 5, paragraphs 0062-0063);
  - ii. a data communications interface operatively connected to a data communications network to effect a peer-to-peer network (See page 5, paragraph 0057); and
  - iii. a controller operatively connected to the persistent data store and the data communications interface (See page 2, paragraph 0018, also see page 2, paragraph 0034); and

b. software executing in the musicbox (See page 5, paragraph 0059, wherein “musicbox” reads on “user device”), the software **capable of**:

i. identifying, without utilizing a central server, other musicboxes executing instances of the software (See page 6, paragraph 0075, wherein “without utilizing a central server” reads on “Gnutella” performs peer-to-peer w/o central server);

ii. **allowing** peer-to-peer sharing of the data files with the identified other musicboxes, the sharing restricted to the identified other musicboxes having authorization to participate in the peer-to-peer sharing of data files (See page 13, paragraph 0196, wherein “identified other musicboxes” reads on “device ID”);

iii. securing the data files from unauthorized access (See abstract);

iv. reproducing the data files into a predetermined perceptible format (See page 5, paragraph 0060, wherein “reproducing” reads on “decrypting”); and

v. **allowing** users of the software to manipulate the data files (See page 5, paragraph 0057, also see page 16, paragraph 0254), wherein said method comprises:

a. pre-loading a plurality of data files onto the persistent data store from a larger set of data files (i.e. an object that's stored in the form of a file or an element of a file, rather than only in memory, see page 12, paragraph 0166);

b. initializing access of the system to a peer-to-peer network (See page 5, paragraph 0062);

c. identifying other systems available on the peer-to-peer network (See page 5, paragraph 0062);



d. determining which of the data files on the other identified systems are not present on the persistent data store (See page 5, paragraph 0063, wherein “determining” reads on “scanning hard drive”) ;

e. identifying the plurality of data files on the persistent data store to the other identified systems (See page 2, paragraph 0020);

f. **allowing** a user to catalog the data files available on the identified systems (See page 12, paragraph 0196);

g. **allowing** the user to select a data file from the plurality of data files identified on the peer-to-peer network (See page 2, paragraph 0018); and

h. **allowing** the user to render the data files into a desired perceptible format (See page 10, paragraph 0137);

wherein method step (b) further comprises accessing a central server to accomplish the initializing of access to the peer-to-peer network, the central server being a peer participant in the peer-to-peer network (See Figure 2).

As to claim 17, Cooper et al. discloses wherein step (c) further comprises at least **one of** identifying a musicbox to a central server, identifying a musicbox to other participants in the peer-to-peer network by broadcasting an identity of the musicbox to the other participants in the peer-to-peer network, and identifying a musicbox to other participants in the peer-to-peer network by pinging for an identity of the other participants in the peer-to-peer network (See page 5, paragraph 0062).

As to claim 18, Cooper et al. discloses wherein step (e) further comprises programmatically providing one or more participants in the peer-to-peer network with a description of content available at a musicbox (See page 8, paragraph 0124) to **allow** users to scout for desired content (the recitation of “to scout” is considered intended use, any recitation that follows does not hold patentable weight).

As to claim 19, Cooper et al. discloses comprising:

- a. gathering data of the user's usage of the musicbox into a user data profile (See pages 9-10, paragraph 0134);
- b. making the user data profile available to a content provider (See page 9, paragraph 0128).

As to claim 20, Cooper et al. discloses further comprising using the user data profile by a provider of data files to generate messages targeted to the user based where the targeted messages comprise at least **one of** advertisements, announcements, and samples of further data similar to that in the profile data (See page 11, paragraphs 0151-0157, also see page 12, paragraphs 0175-0177).

As to claim 21, Cooper et al. discloses a system for peer-to-peer access to a collection of data, comprising:

- a. means for storing persistent data, the persistent data comprising a plurality of data files of a predetermined data format, the data files further secured from unauthorized access (i.e.

an object that's stored in the form of a file or an element of a file, rather than only in memory, see page 5, paragraphs 0063-0064);

b. means for data communications (See page 4, paragraph 0056), operatively connected to the means for storing persistent data (i.e. an object that's stored in the form of a file or an element of a file, rather than only in memory, see page 5, paragraph 0063); and

c. means for accessing the persistent data (i.e. an object that's stored in the form of a file or an element of a file, rather than only in memory), operatively in communication with the means for storing persistent data and the means for data communications (See page 4, paragraph 0056, also see page 5, paragraph 0056), **capable of:**

i. identifying, without utilizing a central server, other systems executing the means for accessing the persistent data (See page 6, paragraph 0075, wherein “without utilizing a central server” reads on “Gnutella” performs peer-to-peer w/o central server);

ii. **allowing** peer-to-peer sharing of the persistent data with the identified other systems, the sharing restricted to the identified other systems (See page 2, paragraph 0020); and

iii. **allowing** users of the means for accessing the persistent data to manipulate the persistent data (See page 5, paragraph 0057, also see page 16, paragraph 0254).

As to claim 22, Cooper et al. discloses wherein said identifying comprises:

detecting whether the other system is executing an instance of software that **allows** and restricts peer-to-peer sharing of the plural data files (See page 5, paragraph 0063, also see page 6, paragraph 0078, wherein monitoring software is stored on user device authorized to access the content in the peer-to-peer network); and

identifying said other system as not being a peer if its detected that said other system is not executing an instance of said software (See page 5, paragraph 0064, wherein “not a peer” reads on “only accepts connections from designated server”).

As to claim 23, Cooper et al. discloses wherein said system does not include a central server (See page 6, paragraph 0075, wherein “without utilizing a central server” reads on “Gnutella” performs peer-to-peer w/o central server).

As to claim 24, Cooper et al. discloses detecting whether a given musicbox of said other musicboxes is executing said software (See page 6, paragraph 0078, also see page 8, paragraph 0124); and

identifying said given musicbox as not being a peer if it is detected that said given musicbox is not executing an instance of said software (See page 6, paragraph 0078, wherein monitoring software is stored on user device authorized to access the content in the peer-to-peer network).

As to claim 24, Cooper et al. discloses wherein said system does not include a central server (See page 6, paragraph 0075, wherein “without utilizing a central server” reads on “Gnutella” performs peer-to-peer w/o central server).

As to claim 26, Cooper et al. discloses wherein said processes further include:

(3) securing an predetermined collection of data files from unauthorized copying (See page 7, paragraph 0081); and

(4) securing an predetermined collection of data files for authorized access (See page 5, paragraph 0063).

***Response to Arguments***

8. Applicant's arguments with respect to claims 1-26 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Levy et al. (U.S. Pub. No. 2002/0033844 A1) teaches machine ID of the player and embedding watermark in content.

Routtenberg et al. (U.S. Pub. No. 2002/0049717 A1) teaches peer-to-peer sharing without central site.

Levy (U.S. Pub. No. 2002/0052885 A1) teaches using embedded data with file sharing.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neveen Abel-Jalil whose telephone number is 571-272-4074. The examiner can normally be reached on 8:30AM-5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Gaffin can be reached on 571-272-4146. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2165

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Niveen Abel-Jalil', with a stylized flourish at the end.

Niveen Abel-Jalil  
January 31, 2006